



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

May 10, 2012

Mr. Jason Smathers
MuckRock News
DEPT MR 1033
P.O. Box 55819
Boston, MA 02205-5819

Tracking No: OGE FOIA FY 12/29 (Admin. Appeal of OGE FOIA FY 12/18)

Dear Mr. Smathers:

The Office of Government Ethics (OGE) has reviewed its initial determination in response to your April 13, 2012 administrative appeal under the Freedom of Information Act (FOIA). In your original request received by our office on January 24, 2012, you asked for "all emails to or from Don W. Fox that were created between 11-9-11 and 11-16-11." In your appeal you state - "I appeal. I requested all emails to or from Don W. Fox from 11-9-11 through 11-16-11. Emails are clearly missing from the responsive records." OGE has reviewed your appeal, including the manner of our initial search and all responsive documents resulting from such search. For the reasons set forth below, OGE is denying your appeal in full.

In response to your initial request, OGE located approximately 455 pages of emails of which 179 pages were released in their entirety. A total of 116 pages were released in part under FOIA Exemption 2, 5 U.S.C. § 552(b)(2), internal personnel and administrative materials, Exemption 5, 5 U.S.C. § 552(b)(5), inter- & intra-agency predecisional deliberative process material, and Exemption 6, 5 U.S.C. § 552(b)(6), information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. We withheld 80 pages in their entirety under FOIA Exemption 2, 5 U.S.C. § 552(b)(2), as internal personnel and administrative materials, FOIA Exemption 5, 5 U.S.C. § 552(b)(5) as inter- & intra-agency predecisional deliberative process material, and FOIA Exemption 6, 5 U.S.C. § 552(b)(6) as information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. We also withheld the draft Performance Accountability Report (PAR) documents attached to several emails under FOIA Exemption 5, 5 U.S.C. § 552(b)(5) as inter- & intra-agency predecisional deliberative process materials. In addition, OGE located 58 pages of responsive documents which originated at the Council of the Inspectors General on Integrity and Efficiency (CIGIE). OGE requested that CIGIE review the material and respond directly to you.

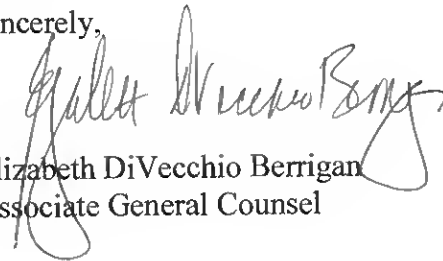
OGE's search for records responsive to your initial request was proper. The withheld documents discussed above correctly meet the Exemptions found at 5 U.S.C. § 552(b)(2), (5) and (6) as internal personnel and administrative materials, inter- and intra-agency predecisional deliberative process material, and/or information the disclosure of which would constitute a

clearly unwarranted invasion of personal privacy, as discussed above. Therefore, as stated above, OGE is denying your appeal in full.

The OGE official responsible for this FOIA determination is the undersigned. This constitutes the final OGE action on your FOIA appeal, which OGE received on April 13, 2012, as administratively appealed. Under the terms of the FOIA, codified at 5 U.S.C. § 552(a)(4)(B), and OGE's FOIA regulations, at 5 C.F.R. § 2604.304(d), you have the right to seek judicial review of this determination in the United States District Court for the district in which you reside or have your principal place of business or in the District of Columbia.

The Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email ogis@nara.gov, phone 301-837-1996 or toll-free 1-877-684-6448.

Sincerely,

A handwritten signature in dark ink, appearing to read "Elizabeth DiVecchio Berrigan", written over the typed name.

Elizabeth DiVecchio Berrigan
Associate General Counsel